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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. LARRY LEE CRAMER, Defendant and Appellant.	B269813 (Los Angeles County Super. Ct. No. PA029071)

APPEAL from an order of the Superior Court of Los Angeles County, Rand S. Rubin, Judge. Affirmed.

Valerie G. Wass, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Paul M. Roadarmel, Jr. and Stephanie A. Miyoshi, Deputy Attorneys General, for Plaintiff and Respondent.

Following a suitability hearing under the Three Strikes Reform Act of 2012, enacted by the voters as Proposition 36 (Pen. Code, § 1170.126),[1] the trial court determined that the defendant, Larry Lee Cramer, posed an unreasonable risk of danger to public safety and denied his petition for resentencing. On appeal, defendant contends the trial court erred in failing to apply the narrower definition of "unreasonable risk of danger to public safety" found in the more recently enacted Proposition 47, the Safe Neighborhoods and Schools Act of 2014 (§ 1170.18). He also argues that, even if the Proposition 47 definition does not apply, the trial court's unreasonable risk determination was an abuse of discretion. We disagree and affirm the order denying the petition.

FACTUAL AND PROCEDURAL SUMMARY

In 1998, a jury found defendant guilty of driving in willful or wanton disregard for the safety of persons or property while fleeing from a pursuing police officer. (Veh. Code, § 2800.2.) The trial court found true allegations that he had two prior strike convictions, and sentenced him to a term of 25 years to life under the Three Strikes law. (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d).) We affirmed the judgment on appeal. (*People v. Cramer* (Feb. 1, 2000, B123039) [nonpub. opn.].)

In January 2013, defendant filed a petition to recall his sentence and to be resentenced as a second-strike offender pursuant to Proposition 36. The trial court found he had made a prima facie showing of eligibility for resentencing and issued an order to show cause as to why the requested relief should not be

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[1] All further undesignated section references are to the Penal Code.

granted. The People opposed the petition on the ground that defendant posed an unreasonable risk of danger to public safety (§ 1170.126, subd. (f)). A suitability hearing was held in June 2015. The People called no witnesses, but introduced several exhibits including defendant's criminal history, prison disciplinary record, and his medical records.

A. *Criminal History*

Defendant has an extensive criminal history dating back to 1965. As a juvenile, he was committed to the California Youth Authority following a series of arrests and sustained petitions for burglary and petty theft. As an adult, defendant suffered 29 criminal convictions for various offenses including burglary (§ 459), theft (§ 484), receiving stolen property (§ 496), taking a vehicle for temporary use (§ 499b), driving under the influence of drugs (Veh. Code, § 23105), misdemeanor drunk driving (Veh. Code, § 23102), reckless driving (Veh. Code, § 23103), driving with a suspended license (Veh. Code, § 14601), being under the influence of a controlled substance (Health & Saf. Code, § 11550), possession of a controlled substance (Health & Saf. Code, § 11377), possession of a syringe (Bus. & Prof. Code, § 4149), disturbing the peace (§ 415), disorderly conduct (§ 647, subd. (f)), resisting a public officer (§ 148), evading a peace officer (Veh. Code, § 2800.2), misdemeanor battery (§ 242), and vandalism (§ 594).

Defendant's prior strikes occurred in 1983, when he was convicted of two counts of first degree burglary (§ 459). According to a probation officer's report, the charges arose after police officers began surveillance of defendant, who was described as a "known and very active burglar." Officers observed him stopping at several residences, knocking on front doors, and walking

through residential yards with a flashlight. At two different houses, officers observed defendant running from the residences to his car. At both locations, officers discovered entry damage and jewelry boxes that were open and empty. Officers searched defendant's car and found gloves, screwdrivers, cash, and jewelry. He was convicted and sentenced to three years in state prison.

In 1993, defendant was convicted of evading a peace officer with willful disregard for the safety of persons or property (Veh. Code, § 2800.2). A probation officer's report noted that police officers observed defendant assaulting a woman in his vehicle while driving. He refused to stop, and then led officers on a high-speed chase through city streets and onto a freeway—during which he failed to stop at a red light, nearly collided with other vehicles, and swerved across four freeway lanes. He drove into a gas station at 40 miles per hour, pulled a U-turn, but was blocked from exiting by police vehicles. When he refused to get out of the vehicle, officers broke the driver's side window and placed him in a choke hold in order to arrest him. The report described him as displaying "'bizarre and paranoid'" behavior as a result of drug use. He was sentenced to three years in state prison.

Defendant committed his life offense in 1998. While driving in light rain and moderate traffic on a freeway, a California Highway Patrol (CHP) officer observed defendant approaching at approximately 70 to 75 miles per hour from the rear. Defendant passed the CHP vehicle, then swerved into another lane. The officer activated his emergency lights, but defendant ignored the officer. He swerved onto the right shoulder, up a dirt embankment, and then crossed three lanes of traffic back to the fast lane. The officer activated his siren and pursued defendant as he continued weaving around traffic and

started throwing clothing and papers out of the car window. He accelerated to 85 miles per hour and continued to veer between lanes, at one point colliding with another vehicle. He then lost control and spun out, hitting the center guard rail. Defendant refused to exit the vehicle. He was combative and cursed at officers while being dragged out and arrested. At trial, defendant was found in contempt for swearing at the judge. (See *People v. Cramer*, *supra*, B123039.)

B. *Prison Disciplinary Record*

Defendant's disciplinary record for his current term of imprisonment included 11 rules violation reports (RVRs) for various offenses: refusing to provide a urine sample in 2000; disobeying a direct order in 2001; behavior which could lead to violence or disorder, resisting staff, and battery on a peace officer in 2002; failing to meet work expectations in 2007; mutual combat in 2008; fighting in 2009; disruptive behavior in 2010; attempting to manipulate staff in 2012; and fighting in 2013. Eight of these RVRs were classified as serious and three as administrative offenses.

Several RVRs involved hostile behavior towards correctional officers and medical staff. In 2002, defendant was found to have engaged in behavior that could lead to violence or disorder after yelling obscenities and kicking the desk of a correctional officer. On the following day, defendant was cited for battery on a peace officer. The RVR states that he became belligerent and started yelling obscenities during an interview. He then jumped up from his chair, lurched over the desk, and spat on the officer's face. In 2010, defendant was cited for disruptive behavior after refusing to pay for a follow up visit with a doctor. When a nurse approached him in a holding cell to

explain the doctor's notes on his medical forms, he grabbed the paperwork through the bars of the cell door, cursed at the nurse, and ripped up the papers.

Three RVRs involved fighting with other prisoners. In 2008, defendant was cited for mutual combat after a correctional officer observed him and another prisoner fighting in their cell. Both prisoners were sprayed with two cans of pepper spray after they refused to comply with the officer's orders. In 2009, he was cited for fighting after officers noticed that he and his cellmate were injured, and a nurse concluded the injuries were consistent with a fight. Defendant received another citation for fighting in 2013 after he and another prisoner were seen "grappling" with their arms wrapped around each other.

The Department of Corrections and Rehabilitation assigns each prisoner a classification score to determine the level of security needed to house the inmate. The lowest score a prisoner serving a life sentence may receive is 19. In 1998, defendant's entering classification score was 102. His score was consistently over 100, reaching a high of 124 in 2004, but gradually declined after 2005 until 2012 when it was 96. In 2013, his score was 88.

C. *Opinion of Melvin Macomber*

Melvin Macomber, Ph.D., an expert in correctional psychology, was appointed by the court to assist the defense. Macomber evaluated defendant's records, interviewed him for two hours, and produced a written report. He also testified at the suitability hearing. Macomber concluded that despite his extensive criminal history and poor record of adjustment in prison, defendant did not pose an unreasonable risk of danger to public safety.

Macomber reviewed defendant's mental health history,

noting he had been "on and off the mental health program at the lowest level" because of his "explosive temper and verbal outbursts." He had been "hostile and uncooperative with mental health providers," and was removed from the system in 2001 when he was diagnosed with a personality disorder. Due to defendant's poor eyesight, Macomber did not administer written tests used to screen for mental health issues. However, he did assess defendant's level of psychopathic thinking using a standard checklist, noting that he "does manifest many traits of psychopathy in his criminal history and behavior," but he "is improving at this time."

Macomber evaluated defendant's medical and substance abuse history. His report noted that defendant's jaw was broken during a prison fight in 2000, and that he previously injured his shoulder and back, suffered from deteriorating vision, and had painful lumps on his testicles and problems with frequent urination and controlling his bowels. Defendant's medical records also indicated that he often refused treatment but demanded pain killers. He told Macomber that he had used marijuana, barbiturates, and heroin since 1973, but voluntarily quit drugs before he was arrested in 1991. The report noted that he had remained sober for most of his sentence, and predicted that he had a good chance of staying drug-free if released.

The report also reviewed defendant's extensive criminal history and poor disciplinary record, but noted that his "institutional behavior is gradually improving." The report noted that he started participating in rehabilitative programming in 2014, including Alcoholics Anonymous and workshops on anger management. Although defendant only started programming after learning about Proposition 36, Macomber testified that this

is typical of third-strike offenders. Following their interview, Macomber believed defendant had "sincere feelings of regret" about his "wasted life" spent in prison and his drug addiction and behavior that "ruined his family." However, he noted that defendant was not contrite about the people he had victimized.

Macomber found defendant poses a "medium or average" risk of re-offending based on several standard actuarial measures, which considered his "extensive criminal history, substance abuse, education, and antisocial pattern." But the report also noted several important mitigating factors—defendant's old age, health problems, and postrelease plans—which were not reflected in the actuarial measures. The report cited research showing that criminal behavior decreases with age. Although defendant has a "terrible criminal history" and "terrible institutional adjustment," Macomber concluded he "does not pose an unreasonable risk of danger at this time."

D. *Defendant's Testimony and Additional Defense Evidence*

Defendant testified at the suitability hearing. He denied intentionally spitting at a correctional officer, as reported in his disciplinary record. The court allowed him to explain his version of the events, but noted there already had been a disciplinary hearing on the matter, defendant had an opportunity to be heard, and there was a finding of guilt. The court cautioned that it would not allow him to re-litigate each of the RVRs in his record. Defendant also denied threatening a psychiatrist during a separate incident. Regarding his health, defendant stated that "my body goes out, my feet go out, my back goes out," asserted that he "can't even walk," and said he is being treated for cancer. He noted that he was almost 65 years old, and said he did not

"want to die in prison for something that I'm in here for." Although he acknowledged making repeated mistakes in his life, he said he was "burned out." He said he quit using drugs and just wanted to get healthy, obtain his benefits, find a job, and reunite with his family.

Defendant introduced several exhibits regarding his rehabilitative programming and postrelease plans. He provided certificates of completion and evaluations for Alcoholics Anonymous and several workshops in which he had participated since 2014. A work supervisor's report showed that he had applied himself in performing janitorial work in 2014. A letter from First to Serve Outreach Ministries indicated he had been accepted into a residential program designed to assist prisoners reintegrate into society. The program included housing, meals, and other support services. Defendant's nephew wrote a letter stating that he was willing to offer defendant employment if released.

Defense counsel subpoenaed additional medical records beyond those evaluated by Macomber, which were introduced into evidence at the suitability hearing. Records from June 2015 indicated defendant was recently diagnosed with prostate cancer that had metastasized to his bones. He started chemotherapy in June 2015 and was being treated with painkillers for his discomfort.

E. *Trial Court's Memorandum of Decision*

Following the suitability hearing, the trial court issued a 25-page memorandum of decision. After evaluating defendant's criminal and disciplinary history, participation in rehabilitative programs, classification and risk scores, medical and mental health history, postrelease plans, and Macomber's report, the

court concluded the preponderance of the evidence demonstrated that defendant posed an unreasonable risk of danger to public safety.

The court found that defendant's numerous convictions for reckless driving and driving while intoxicated—including two incidents involving high-speed police chases—demonstrated an "extreme level of recklessness" and reflected an "utter disregard for the safety of others." Although the convictions were remote, the court found "scant evidence" of rehabilitation and a disciplinary record which reflected "a pattern of belligerent and aggressive conduct, evidencing his inability or unwillingness to respect authority." The fact that defendant only started rehabilitative programs after learning he may be eligible for resentencing suggested a lack of "sincerity and genuine motivation to better himself."

Based on defendant's medical needs and history of mental health and substance abuse issues, the court determined he would require extensive intervention from service providers. But the court was not confident defendant would follow their directions given his history of "defiant, abusive, and belligerent conduct" toward healthcare providers and prison staff. The court determined that defendant's health problems did not necessarily "preclude him from again putting the public at risk." Finding no indication the "cancer ha[d] spread to [his] vital organs, or that he [wa]s incapacitated," the court found "[h]e can most likely drive a car and again engage in the level of reckless driving that led to two of his felony convictions."

Despite earning some positive work supervisor's reports, lowering his classification score, and participating in rehabilitative programming, the court found that defendant's

"criminal history and disciplinary conduct, both in and out of custody, reflect an ongoing disregard for the safety of others." The court concluded that defendant posed an unreasonable risk of danger to public safety "due to his criminal history, behavior in prison, and insufficient rehabilitative programming," and accordingly denied his petition.

This appeal followed.

DISCUSSION

I

Defendant first contends the trial court applied an erroneous legal standard in determining that he posed an unreasonable risk of danger to public safety. He argues that the narrower definition of "'unreasonable risk of danger to public safety'" contained in Proposition 47 (§ 1170.18, subd. (c)) applies to his resentencing petition under Proposition 36 (§ 1170.126, subd. (f)), and requests that we reverse and remand the matter for a new suitability hearing.[2] We decline to do so.

Proposition 36 was approved by the voters in November 2012 to amend the Three Strikes law by limiting the imposition of indeterminate life sentences to those defendants whose third felony is defined as serious or violent. (§ 1170.126, subd. (b).) Proposition 36 also allowed those serving indeterminate life sentences for nonserious, nonviolent third felony convictions to

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[2] The issue of whether the later-enacted Proposition 47 definition of "unreasonable risk of danger to public safety" applies to Proposition 36 resentencing petitions is currently pending before our Supreme Court. (See *People v. Chaney* (2014) 231 Cal.App.4th 1391, review granted Feb. 18, 2015, S223676; *People v. Valencia* (2014) 232 Cal.App.4th 514, review granted Feb. 18, 2015, S223825.)

petition for recall of their sentences. An eligible defendant is entitled to resentencing "unless the court, in its discretion, determines that resentencing the [defendant] would pose an unreasonable risk of danger to public safety." (§ 1170.126, subd. (f).) Proposition 36 does not define "unreasonable risk of danger to public safety," but provides that the court, "[i]n exercising its discretion . . . may consider: [¶] (1) [t]he petitioner's criminal conviction history, including the type of crimes committed, the extent of injury to victims, the length of prior prison commitments, and the remoteness of the crimes; [¶] (2) [t]he petitioner's disciplinary record and record of rehabilitation while incarcerated; and [¶] (3) [a]ny other evidence the court, within its discretion, determines to be relevant in deciding whether a new sentence would result in an unreasonable risk of danger to public safety." (§ 1170.126, subd. (g).)

In November 2014, two years after Proposition 36 was enacted, the voters approved Proposition 47 (§ 1170.18), which reduced the punishment for certain nonserious, nonviolent drug and theft offenses by reclassifying them from felonies to misdemeanors. Proposition 47 also established a resentencing procedure under which a defendant is eligible "unless the court, in its discretion, determines that resentencing the [defendant] would pose an unreasonable risk of danger to public safety." (§ 1170.18, subd. (b).) Subdivision (c) of section 1170.18 further provides: "As used throughout this Code, 'unreasonable risk of danger to public safety' means an unreasonable risk that the petitioner will commit a new violent felony within the meaning of clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667," which specifies certain extremely serious and

violent felonies, often referred to as "super strikes."[3]

Defendant argues that the plain language of section 1170.18, subdivision (c) now limits a trial court's discretion to deny resentencing under Proposition 36 to those cases in which resentencing the defendant would pose an unreasonable risk that the defendant will commit a new "super strike" offense. He maintains that because subdivision (c) uses the phrase, "[a]s used throughout this Code," Proposition 47 unambiguously applies its definition of "unreasonable risk of danger to public safety" to the entire Penal Code, including Proposition 36 (§ 1170.126, subd. (f)).

We do not agree. Instead, we conclude that the definition in section 1170.18, subdivision (c) does not apply to petitions for resentencing under Proposition 36. Most appellate courts that have examined this issue have reached the same conclusion, reasoning that Proposition 47's use of the word "Code" (as opposed to "Act" or "Section") was a drafting error.[4] (See *People v.*

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[3] The "super strike" offenses identified in section 667, subdivision (e)(2)(C)(iv), include sexually violent offenses; sexual offenses against children including oral copulation, sodomy, sexual penetration, and lewd or lascivious conduct; homicide offenses; solicitation to commit murder; assault with a machine gun on a peace officer or firefighter; possession of a weapon of mass destruction; and "[a]ny serious and/or violent felony offense punishable in California by life imprisonment or death."

[4] Almost every decision analyzing this issue has been depublished since our Supreme Court granted review. (Compare *People v. Buford* (2016) 4 Cal.App.5th 886, review granted Jan. 11, 2017, S238790 [declining to apply Proposition 47's definition of dangerousness to Proposition 36 proceedings]; *People v. Florez* (2016) 245 Cal.App.4th 1176, review granted June 8, 2016,

Skinner (1985) 39 Cal.3d 765, 775–776 [the "basic principle of statutory and constitutional construction which mandates that courts, in construing a measure, not undertake to rewrite its unambiguous language . . . is not applied . . . when it appears clear that a word has been erroneously used, and a judicial correction will best carry out the intent of the adopting body"].) In reaching this conclusion, these courts adopted many of the arguments advanced by the People in this case.

First, reading section 1170.18 as a whole indicates that the voters did not intend to apply subdivision (c)'s definition of dangerousness to the entire Penal Code. Subdivision (n) expressly provides that "[n]othing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this act." Unless the subdivision (c) definition is limited to "this act," the finality of judgments in Proposition 36 cases would certainly be diminished. In addition, subdivision (c) refers to "the petitioner," a term that is used throughout Proposition 47 to refer exclusively to persons

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S234168 [same]; *People v. Myers* (2016) 245 Cal.App.4th 794, review granted June 13, 2016, S233937 [same]; *People v. Lopez* (2015) 236 Cal.App.4th 518, review granted July 27, 2015, S227028 [same]; *People v. Sledge* (2015) 235 Cal.App.4th 1191, review granted July 8, 2015, S226449 [same]; *People v. Guzman* (2015) 235 Cal.App.4th 847, review granted June 17, 2015, S226410 [same]; *People v. Davis* (2015) 234 Cal.App.4th 1001, review granted June 23, 2015, S225603 [same]; *People v. Rodriguez* (2015) 233 Cal.App.4th 1403, review granted May 12, 2015, S225047 [same]; *People v. Chaney*, *supra*, 231 Cal.App.4th 1391 [same]; *People v. Valencia*, *supra*, 232 Cal.App.4th 514 [same]; with *People v. Cordova* (2016) 248 Cal.App.4th 543, review granted Oct. 5, 2016, S236179 [applying the Proposition 47 definition to Proposition 36].)

petitioning under "this section" or "this act." (See § 1170.18, subds. (a), (b), (j), & (m).) These provisions suggest the voters intended subdivision (c)'s definition to be applied only in Proposition 47 cases.

Further, there is nothing in the Proposition 47 ballot materials suggesting that the initiative would have any impact on Proposition 36 resentencing determinations. (Voter Information Guide, Gen. Elec. (Nov. 4, 2014), Analysis by Legislative Analyst, pp. 34–39.) Rather, the ballot materials repeatedly emphasize that the resentencing provisions of Proposition 47 were limited to those defendants serving sentences for specified nonserious, nonviolent drug and theft offenses. This strongly indicates that voters did not intend section 1170.18, subdivision (c) to restrict a trial court's resentencing discretion under Proposition 36.

For the foregoing reasons, we agree with the majority of courts which have held that the phrase "throughout this Code" as used in section 1170.18, subdivision (c) must be read to mean "throughout this Act," and does not affect resentencing determinations under Proposition 36. Accordingly, the trial court did not apply an erroneous legal standard when it determined that defendant posed an unreasonable risk of danger to public safety.

II

Defendant also argues that, even if the Proposition 47 definition does not apply, the trial court abused its discretion in denying his petition based on insufficient evidence that he posed an unreasonable risk of danger to public safety. We find no abuse of discretion.

As we have discussed, a Proposition 36 petitioner who is

eligible for relief "shall be resentenced . . . unless the court, in its discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger to public safety." (§ 1170.126, subd. (f).) Because section 1170.126 vests "'discretionary power . . . in the trial court,'" the court's "'exercise of that discretion "must not be disturbed on appeal except on a showing that the court exercised its discretion in an arbitrary, capricious or patently absurd manner that resulted in a manifest miscarriage of justice. [Citations.]'" [Citation.]" (*People v. Williams* (2013) 58 Cal.4th 197, 270-271.) A trial court also may abuse its discretion when the factual findings underlying its determination are not supported by substantial evidence. (See *People v. Cluff* (2001) 87 Cal.App.4th 991, 998.)

The trial court's 25-page memorandum of decision makes clear that it properly applied the standard outlined in section 1170.126, subdivision (g) and carefully evaluated the evidence presented—including defendant's criminal history, disciplinary record, record of rehabilitation, classification and risk scores, medical and mental health history, postrelease plans, and Macomber's report. After weighing this evidence, the court concluded that defendant continued to pose an unreasonable risk of danger to public safety based on his "criminal history, behavior in prison, and insufficient rehabilitative programming."

Defendant contends that his advanced age, deteriorating health, improved disciplinary record, participation in rehabilitative programming, and postrelease commitments ensure that he would not pose an unreasonable risk of danger to the public if resentenced. But the court considered this evidence and determined it was not offset by other factors—namely the extreme recklessness and disregard for public safety

demonstrated by defendant's criminal record and his aggressive and belligerent behavior in prison. Substantial evidence supported the court's determination.

Defendant also argues the court failed to consider that his deteriorating vision would likely make it impossible for him to drive, and that he would not have access to a vehicle while living in the Outreach Ministries residential program. However, there was no evidence establishing defendant was so physically incapacitated that he was incapable of operating a car. Nor does his acceptance into a residential program necessarily preclude him from obtaining a car or attempting to drive. The court reasonably determined that he still posed a risk of driving recklessly and endangering the public, as he had done on numerous occasions in the past.

Finally, defendant maintains the court failed to make an informed exercise of its discretion because the memorandum of decision erroneously stated he was present at the hearing but did not testify. He contends this error shows the court did not consider his testimony in reaching its decision, and therefore the matter must be remanded for a new resentencing determination. We do not agree.

Even assuming the error establishes that the court did not consider defendant's testimony, section 1170.126, subdivision (g) did not require the court to do so. For the most part, his testimony restated evidence in the record that the trial court expressly evaluated, for example, his deteriorating health and postrelease plans. Although he attempted to challenge some of the findings in his prison disciplinary record, the court correctly noted that a section 1170.126 resentencing hearing is not an appropriate forum to relitigate a prison's disciplinary decisions.

(See *In re Johnson* (2009) 176 Cal.App.4th 290, 297 ["courts must grant great deference to a prison's decision to impose discipline against an inmate"].)

Defendant's reliance on authorities such as *People v. Belmontes* (1983) 34 Cal.3d 335 is misplaced. While "[d]efendants are entitled to sentencing decisions made in the exercise of the 'informed discretion' of the sentencing court" (*Id.* at p. 348, fn. 8), this requirement has not been applied to resentencing determinations under Proposition 36. Further, remand is generally required in these cases where the court was either "unaware of the scope of its discretionary powers" or based its sentencing determination on "misinformation regarding a material aspect of a defendant's record." (*Ibid.*; see, e.g., *People v. Superior Court* (*Romero*) (1996) 13 Cal.4th 497, 530, fn. 13 [remand required where record affirmatively discloses sentencing court misunderstood scope of its discretion to strike prior serious convictions]; *People v. Ruiz* (1975) 14 Cal.3d 163, 168 [remand required where sentencing court bases its determination to deny probation on erroneous understanding of defendant's legal status].) Defendant makes no such allegations here.

Under the deferential abuse-of-discretion standard of review, the court's finding that defendant posed an unreasonable risk of danger to public safety will be upheld on appeal unless it "'falls outside the bounds of reason' under the applicable law and the relevant facts [citations]." (*People v. Williams* (1998) 17 Cal.4th 148, 162.) We conclude the trial court made a reasonable determination based on a careful analysis of the record, and discern no abuse of discretion.

DISPOSITION

The order denying the petition for recall and resentencing is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

EPSTEIN, P. J.

We concur:

MANELLA, J.

COLLINS, J.